

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service
Commission held at its office in
Jefferson City on the 17th day of
April, 2013.

In the Matter of the Application of Union Electric)	
Company, d/b/a Ameren Missouri for Permission and)	
Approval and a Certificate of Public Convenience and)	
Necessity Authorizing it to Construct, Install, Own,)	<u>File No. EA-2012-0281</u>
Operate, Maintain, and Otherwise Control and)	
Manage a Utility Waste Landfill and Related Facilities)	
At its Labadie Energy Center.)	

ORDER DENYING MOTION TO DISMISS

Issue Date: April 17, 2013

Effective Date: April 17, 2013

On January 24, 2013, Union Electric Company, d/b/a Ameren Missouri, filed an application seeking a certificate of convenience and necessity from the Commission to expand the boundaries of its Labadie Energy Center to permit the construction and operation of a utility waste landfill. The proposed landfill is located in Franklin County, Missouri and would be used to store coal combustion products, sometimes referred to as coal ash, generated at the company's existing coal-fired electric power plant, the Labadie Energy Center. On March 26, Labadie Environmental Organization (LEO) and Sierra Club filed a motion asking the Commission to dismiss Ameren Missouri's application, arguing that the Commission lacks jurisdiction to grant a certificate of convenience and necessity to construct a utility waste landfill. Ameren Missouri and the Commission's Staff responded in opposition to LEO and Sierra Club's motion to dismiss on April 10.

The foundation of LEO and Sierra Club's motion to dismiss is their contention that the utility waste landfill that Ameren Missouri has proposed to build next to its Labadie Energy Center is not electric plant within the meaning of Missouri's statutes. The definition of electric plant is important because Ameren Missouri has applied for a certificate of convenience and necessity under the terms of Section 393.170.1, RSMo 2000. That statute provides that "no ... electrical corporation, ...shall begin construction of ... electric plant ... without first having obtained the permission and approval of the commission."

Before assessing whether Ameren Missouri's application is seeking a certificate of convenience and necessity for electric plant, it is important to be clear about what Ameren Missouri is seeking from the Commission. Ameren Missouri has asked the Commission for "permission and approval and a certificate of public convenience and necessity to expand the boundaries of its Labadie Energy Center, so that it can construct and operate a utility waste landfill and conduct other plant related operations at the site."¹ In other words, Ameren Missouri is seeking authority to expand the boundaries of its existing energy center for the specified purpose. It is not seeking authority from this Commission to operate a landfill.

That is an important distinction because as LEO and Sierra Club point out, the Commission has no explicit legal authority or special expertise to grant a permit for the construction and operation of a utility waste landfill. Instead, that authority and expertise belongs to the Missouri Department of Natural Resources. However, the Commission clearly does have authority and expertise to approve the construction of electric plant under Section 393.170.1 RSMo.

¹ Application, at page 1.

The statutory definition of electric plant is found at Section 386.020(14), RSMo (Supp. 2012). The relevant part of that section defines electric plant as including:

all real estate, fixtures and personal property operated, controlled, owned, used or to be used for or in connection with or to facilitate the generation, transmission, distribution, sale or furnishing of electricity for light, heat or power

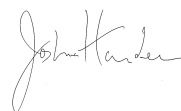
The expansion of the amount of real estate included within the boundaries of the Labadie Energy Center for the stated purpose of constructing a utility waste landfill is in connection with or to facilitate the generation of electricity and thus falls within the statute's definition of electric plant. Obviously, Ameren Missouri cannot generate electricity without planning for the safe disposal of the resulting waste products.

The Commission concludes that it does have statutory jurisdiction to consider Ameren Missouri's application for a certificate of convenience and necessity to expand the boundaries of the Labadie Energy Center. The motion to dismiss will be denied.

THE COMMISSION ORDERS THAT:

1. The Motion of Intervenors Labadie Environmental Organization and Sierra Club to Dismiss for Lack of Jurisdiction is denied.
2. This order shall become effective upon issuance.

BY THE COMMISSION



Joshua Harden
Secretary

R. Kenney, Chm., Jarrett, Stoll, and
W. Kenney, CC., concur.

Woodruff, Chief Regulatory Law Judge